

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION**

D'WAYNE BAILEY,

Plaintiff,

v.

DOC Director Mike Batista et. al.,

Defendants.

CV-16-22-GF-BMM-JTJ

**ORDER ADOPTING MAGISTRATE  
JUDGE'S FINDINGS AND  
RECOMMENDATIONS**

Plaintiff Bailey originally filed an Amended Complaint, Second Amended Complaint, Third Amended Complaint, Fourth Amended Complaint, as well as supplements to these complaints, in which he advanced various constitutional claims. (Docs. 9, 13, 16, 17, 19, 20, and 21). The Court dismissed all of Bailey's claims except a portion of Bailey's Equal Protection claim, in which he asserted that his rights were violated by alleged discriminatory practices at the Montana State Prison. Defendants moved for summary judgement alleging no issue of

material fact exists, that Defendants were entitled to qualified immunity, and requested that Bailey's complaint be dismissed with prejudice. (Doc. 44).

Magistrate Judge John Johnston entered Findings and Recommendations on February 21, 2019, and determined that Defendants are entitled to qualified immunity. (Doc. 58 at 19-24). Judge Johnston recommended that Defendants' motion for summary judgement (Doc. 43) be granted. (Doc. 58).

No party filed objections to Judge Johnston's Findings and Recommendations. The Court has reviewed Judge Johnston's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The Court finds no error in Judge Johnston's Findings and Recommendations and adopts them in full.

## **ORDER**

Accordingly, **IT IS ORDERED** that Magistrate Judge Johnston's Findings and Recommendations (Doc. 58) are **ADOPTED IN FULL**.

**IT IS ORDERED** that Defendants' Motion for Summary Judgement (Doc. 43) is **GRANTED**.

The Clerk of the Court is directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

The Clerk of the Court is further directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision should not be taken in good faith.

DATED this 11th day of March, 2019.



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Brian Morris  
United States District Court Judge

